

U.S. DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

APR 23 2007

FILED

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

MACTEC Engineering
& Consulting, Inc.

v.

Civil No. 06-cv-466-JD

OneBeacon Insurance Company

O R D E R

OneBeacon Insurance Company asks the court to reconsider that part of the order, issued on March 21, 2007, denying MACTEC Engineering & Consulting, Inc.'s, motion to dismiss, in which the court concluded that New Hampshire law would govern substantive issues in this case. OneBeacon contends that Massachusetts law should apply. MACTEC opposes the motion for reconsideration.

In the previous order, the court noted that the parties questioned whether New Hampshire or Massachusetts law governed. The court also noted that if the parties fail to show that the laws of the potentially interested states conflict, no choice of law analysis is required, and the court applies the law of the forum state. Order at 2. Because the parties failed to show a conflict between the law of Massachusetts and New Hampshire, the court concluded that New Hampshire law would govern.

OneBeacon argues that Massachusetts law should apply and that it did not intend, previously, "to infer [sic] to the Court

that the laws of the two states were identical regarding all aspects of interpreting an insurance policy." Motion at 2. OneBeacon argues that New Hampshire's choice of law rules would favor applying Massachusetts law in this case. Although OneBeacon cites a Massachusetts case that provides a rule pertaining to the duty to defend and indemnify, OneBeacon does not show or even suggest that New Hampshire law conflicts with the Massachusetts rule on that issue or any other issue material to this case.

"The district court has 'plenary authority' to reconsider its own rulings if it believes it has erred, and to grant a motion it had previously denied." DeNovellis v. Shalala, 135 F.3d 58, 70 (1st Cir. 1998). OneBeacon has not shown any basis for the court to reconsider its prior ruling.

Conclusion

For the foregoing reasons, the defendant's motion for reconsideration (document no. 26) is denied.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

April 23, 2007

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